

Exhibit 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-MD-03076-KMM

IN RE FTX CRYPTOCURRENCY
EXCHANGE COLLAPSE LITIGATION,

Miami, Florida

January 17, 2024

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DISCOVERY HEARING
TRANSCRIBED FROM DIGITAL AUDIO RECORDING
BEFORE THE HONORABLE EDUARDO I. SANCHEZ
UNITED STATES MAGISTRATE JUDGE

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1 Thereupon,
2 the following proceedings were held:

3 THE DEPUTY CLERK: Calling case In Re FTX
4 Cryptocurrency Exchange Collapse Litigation, case No. 23 3076,
5 MD, Moore.

6 Counsel, please state your appearance for the record,
7 starting with the plaintiff.

8 MR. MOSKOWITZ: Good morning, your Honor. Adam
9 Moskowitz and Joey Kaye, for The Moskowitz Law Firm. We are
10 colead counsel with the Boies Schiller firm, and here we have
11 Steve Zack, Tyler Ulrich, and Mr. Boies is on the phone.

12 THE COURT: OK. Good afternoon.

13 MR. SEPULVEDA: Good afternoon, your Honor. Jose
14 Sepulveda, from Stearns Weaver Miller, on behalf of defendants
15 Erika Kullberg, Brian Jung, and Creators Agency.

16 THE COURT: Good afternoon.

17 MR. SHAPIRO: Good afternoon, your Honor. Jay
18 Shapiro, also from the Stearns Weaver law firm. I am here on
19 behalf of Altimeter Capital. Altimeter doesn't have any dog in
20 any of the fights here in front of you today, but I am just
21 here to observe.

22 THE COURT: OK.

23 MS. BUCHWALD: Your Honor, Lara Samet Buchwald, of
24 Davis Polk & Wardwell, on behalf of Deltec and Jean Chalopin.
25 With me is Roshaan Wasim and Joseph Isenberg.

1 THE COURT: Very well. Good afternoon.

2 MS. DOROUGH: Marisa Dorough, of Baker Donelson, here
3 on behalf of defendant Farmington State Bank. We also
4 (inaudible).

5 MR. BULL: Good afternoon. Nathan Bull and my
6 colleague Ellie Hourizadeh. We are from the firm McDermott
7 Will & Emery, on behalf of defendant Stephen Curry, and we are
8 here to observe.

9 MR. LIPSHULTZ: Good afternoon, your Honor. Zach
10 Lipshultz, of the law firm Colson Hicks Eidson, and I'm here on
11 behalf of defendant Larry David.

12 I don't anticipate speaking today because the
13 discovery request was withdrawn as to my client.

14 MS. UPADHYAYA: Good afternoon, your Honor. Vani
15 Upadhyaya, from Morrison Cohen.

16 THE COURT: I'm sorry. I can't hear you.

17 MS. UPADHYAYA: Good afternoon. Vani Upadhyaya, of
18 Morrison Cohen. I'm here with Melissa Madrigal. We represent
19 Sino Global Capital Holdings, LLC.

20 THE COURT: OK. Is there anyone else here making an
21 appearance today?

22 MR. FELS: Yes, your Honor.

23 THE COURT: OK.

24 MR. FELS: Adam Fels, Fridman Fels & Soto. With me
25 here is Andrew Ehrlich, from the Paul Weiss law firm. We

1 represent the Temasek parties.

2 MR. SCHULTE: Good afternoon, your Honor. Tom
3 Schulte, of Hunton Andrews Kurth. I'm here on behalf of
4 Armanino, and we have no motions pending.

5 THE COURT: Anyone else? OK.

6 MS. FERNANDEZ: Desiree Fernandez, Mark Migdal &
7 Hayden, cocounsel for the plaintiffs.

8 THE COURT: I'm sorry?

9 MS. FERNANDEZ: Cocounsel for the plaintiffs, your
10 Honor.

11 THE COURT: OK. Thank you.

12 All right. Full complement of folks here today.

13 We have got, I think it is a little over half a dozen
14 motions to address today.

15 I understand on the plaintiffs' side. Who is here on
16 the defendants' side raising a motion?

17 Mr. Sepulveda, I know you have your group.

18 MS. BUCHWALD: I'm here on behalf of Deltec and
19 Mr. Chalopin.

20 THE COURT: OK. Who else? Mr. Fels. OK. Anyone
21 else?

22 MS. UPADHYAYA: On behalf of Sino.

23 THE COURT: On behalf of Sino. OK.

24 All right. Well, Mr. Moskowitz, let's start with you
25 because these are primarily your motions to compel, although

1 there are some motions for protective order and to quash.

2 Give me a moment.

3 MR. MOSKOWITZ: Thank you, your Honor.

4 THE COURT: Let me start first with where we are and
5 is there anything that has developed since these filings.

6 MR. MOSKOWITZ: I can give you a quick one- or
7 two-minute update, because this is our first hearing with your
8 Honor. So I can tell you sort of where we are in the case.

9 Since these filings, one of the defendants have
10 settled their claims. So they are not going to be here asking
11 for anything, any relief.

12 THE COURT: That would be Mr. Jung.

13 MR. MOSKOWITZ: Yes, your Honor.

14 THE COURT: OK. I didn't know if that was just
15 resolution of the discovery issues.

16 MR. MOSKOWITZ: No, it is settlement for the case.

17 THE COURT: In any event, for our purposes today the
18 discovery issues are resolved with respect to Mr. Jung.

19 MR. MOSKOWITZ: Yes, your Honor.

20 So I can give you maybe a minute or two, if that is
21 OK, and I could kind of tell you how these all fall within the
22 context of the case and get -- pretty quick.

23 THE COURT: I don't think I need that at this point.
24 Really what I wanted to find out is had there really been any
25 development on the discovery issues that have been briefed.

1 MR. MOSKOWITZ: There have, your Honor. So for
2 everybody else -- you know there's around 54 defendants. So
3 everybody else has dropped their jurisdictional defense or
4 dropped their resistance for discovery. So really we are only
5 down to three people, three categories of people.

6 One is the bank, Deltec, and it is the only bank we've
7 sued because the other six are insolvent, and Deltec plays a
8 major role in the fraud. I mean, we allege basically it
9 happened because Sam Bankman-Fried was able to bank with this
10 international bank that had the most experience in the world
11 with cryptocurrency, and Deltec is not a small mom-and-pop
12 Bahamian bank; it is a major international conglomerate, with
13 many different companies, with businesses in Miami, and we've
14 heard already, because Sam Bankman-Fried, his trial took place,
15 and he was convicted of various things, including transferring
16 money almost on a weekly basis between the FTX and the Alameda
17 accounts. Well, both of those accounts were at Deltec Bank.

18 So it is ironic that they say, you know, we are just a
19 small bank, we didn't do anything. They don't handle Bahamian
20 money. People don't deposit Bahamian money there because it is
21 an international bank, and that is where hundreds of millions
22 of dollars was flowing through every week for FTX.

23 So they are a major, major defendant here, and for
24 them to claim there is no jurisdiction doesn't really make any
25 sense because the law says you don't even need to have events

1 in Florida if you help further the conspiracy.

2 So we have many, many other allegations against Deltec
3 Bank and what they did and Mr. Chalopin. In fact, they bought
4 another bank, Farmington Bank, which then they flowed money
5 through. So there are a lot of allegations.

6 The second are just two hedge funds, Temasek and Sino.
7 The other eight hedge funds are not here today. They have
8 agreed with us. We have worked it out.

9 These two funds -- Sino, we found an office in Miami.
10 These people were partners of FTX. They served on the advisory
11 committee of FTX. So it is sort of absurd to say, well, we are
12 going to give an affidavit from their company, which they did,
13 but we are not going to let you challenge that declaration.
14 That's what they did. All the other funds said, yeah, you've
15 got jurisdiction over us.

16 So clearly there are allegations about them furthering
17 the conspiracy because the original money all came from them.
18 Many people invested because they had the stamp of approval
19 from these two very respected funds.

20 The third category are just five individuals that are
21 social influencers. These aren't even the celebrities in the
22 case. These are just people that had their YouTube station.
23 They would go on, promote FTX, secretly get paid kickbacks from
24 FTX for doing the promotions, and under the BitConnect case,
25 the Eleventh Circuit case now, it says you can be held liable

1 for promoting an unregistered security if you had a financial
2 interest.

3 So these five individuals, we now know, they all got
4 paid, they all had a financial interest, they all promoted FTX,
5 and in the last year, your Honor, this case has advanced
6 greatly. The SEC has said that the FTT token and the FTX
7 interest account is an unregistered security. So I don't think
8 any of the remaining defendants are ever going to come into
9 court and say they're not.

10 So these five individuals, they admittedly promoted an
11 unregistered security. They're liable. So they have been the
12 most adamant and the most ferocious defendants, saying, we're
13 not giving you anything; we're not going to listen to you;
14 we're not going to accept service. The truth is probably
15 because there is no other defense. They admitted it. We did
16 promote FTX. We took money.

17 That is what we are here today. We worked out
18 everything else. We want one deposition of each of the
19 defendants.

20 Judge Moore entered an order denying these defendants'
21 motion to stay discovery, saying I will allow jurisdictional
22 discovery. We've met for hundreds of hours, because we took to
23 heart your Honor's order which says you need to really work
24 these out in meet and confers, and some of these individual
25 social influencers violate your rule because they have

1 objections that are boilerplate. They actually say
2 boilerplate, we reserve all objections without waiving any, we
3 state the following. They don't even meet your own discovery
4 rule regulations.

5 So we would just ask that your Honor allow us to take
6 the jurisdictional discovery from these three defendants so we
7 can move on to the next phase of the case, because Judge Moore
8 has said, we have to finish this all in a matter of three
9 weeks. So we have to get the documents, take the depositions,
10 and then file any supplemental filings in about
11 three-and-a-half weeks.

12 THE COURT: OK.

13 MR. MOSKOWITZ: I say one last thing is, in any
14 typical case that we've had there is burdensome. There is not
15 a single affidavit from any of these three people to say that
16 any of the discovery we are seeking is burdensome.

17 So they have had a year now, because we filed these
18 lawsuits a year ago. The SEC has looked into it, the Justice
19 Department. Clearly they've gathered everything they have.

20 THE COURT: I understand, Mr. Moskowitz. This
21 discovery wasn't served until the end of December. Obviously,
22 I think, except for Temasek, I haven't actually seen, I think,
23 any objections to any discovery at this point because they are
24 not due yet, right?

25 MR. MOSKOWITZ: Right.

1 THE COURT: So we are in this situation. I know you
2 are trying to expedite discovery. Obviously you didn't seek to
3 do that at the beginning of the discovery period, and probably
4 you didn't have reason to at that point. You thought that
5 there would be cooperation.

6 Look at your discovery requests. I do have some
7 concerns because they do seem to me to be very broad. I am not
8 sure about this, but some of them do seem to me
9 disproportionate to the limited jurisdictional discovery that
10 Judge Moore ordered. A lot of it I think is not and a lot of
11 it is clearly within the scope.

12 I guess what I need to do now is -- well, let me ask
13 you, what is it exactly that you're asking for in terms of your
14 motions to compel? Are you just asking for them to -- I mean,
15 their regular due date now would be Monday, right?

16 MR. MOSKOWITZ: Right.

17 THE COURT: That would be when you would get their
18 responses and their objections and what have you. I assume
19 that it's -- well, let me not assume.

20 What is the status on that? Have you gotten their
21 objections yet? Do you know where this is at, or is it still
22 in flux because they are not responding to you until Monday?

23 MR. MOSKOWITZ: We have gotten objections from each
24 one of them.

25 THE COURT: OK.

1 MR. MOSKOWITZ: Multiple objections from each one of
2 these three defendants saying we object; we may give you some
3 nonprivileged materials, but we object. We have gotten the
4 objections already.

5 I understand what your Honor is saying. The reason we
6 served it is, typically in an MDL when the cases all get
7 transferred here somebody who originally, like Larry David, he
8 originally said you don't have jurisdiction in Florida. Well,
9 when it is MDL'd, the case gets transferred to Florida. So it
10 is the case from California.

11 We didn't expect there would be any type of
12 jurisdictional fights. So in the beginning we served
13 discovery, which included jurisdictional discovery. Judge
14 Moore denied discovery. It is only when they raised in their
15 motion to dismiss, hey, and you also don't have jurisdiction
16 over us, then we served this discovery.

17 We could make it easy, your Honor. We could even go
18 after this hearing and try again and send them cut-down,
19 limited requests, because it is not going to be a very close
20 issue, in my opinion, whether there is jurisdiction over these
21 defendants. So I don't want to waste your time, your Honor.

22 THE COURT: Well, that is really what I wanted to get
23 at. I want to find out what it is that you really need, right,
24 because some of these end up with, and anything involved in
25 this lawsuit.

1 MR. MOSKOWITZ: Absolutely.

2 THE COURT: I understand that some of this comes from
3 other things, but I want to get to the gist of it because you
4 have got until the end of the month to -- well, I guess until
5 the 1st of next month to complete this discovery, and the
6 defendants obviously need some time too because of what is
7 involved.

8 So I just want to make sure everyone has time and that
9 we do what Judge Moore has ordered, which I think is limited
10 discovery of what -- and I understand and I believe, and I will
11 hear from them now and their position, but I do believe that
12 there is merits discovery that is intertwined with the
13 jurisdictional that he has authorized, but, again, he also did
14 not authorize full merits discovery. I think the order is very
15 clear on both of those aspects.

16 MR. MOSKOWITZ: Absolutely.

17 THE COURT: Now exactly what that means, the devil is
18 in the details. There just isn't full merits discovery, and I
19 think some of this gets close to seeking that. That is really
20 what I want to address.

21 So I want you to be prepared to do that. And maybe
22 let's start with the first of the defendants, Mr. Sepulveda and
23 his clients, and maybe we can see -- unless you tell me there
24 is some other way that you think that we can resolve this and
25 you can tell me already what it is that you need that might not

1 be objectionable to them.

2 MR. MOSKOWITZ: I think we could, your Honor. There
3 is overlap because we have been doing discovery in the Voyager
4 and the Binance case.

5 For example, the FTX contract. You could say, well,
6 that is merits discovery, but it is not because the actual
7 contract will say this is your target audience. They say that.
8 Or this is how much you're going to be paid and this will be
9 your compensation. That goes towards jurisdiction as well. Or
10 this is where you'll post your internet sites. So a lot of it
11 is overlap.

12 I think we worked our way back. I think if we just
13 have a deposition date in, say, three weeks for each of the
14 defendants, one deposition, as allowed by the federal rules,
15 one deposition, then in the next week the materials that
16 they've already reviewed -- I don't want them to start looking
17 for anything. We filed this a year ago. So you have got to
18 presume in good faith their lawyer has already gathered the
19 materials that are relevant. So I think if your Honor just
20 required them to comply with the federal rules, which is
21 materials which you have already gathered for your
22 investigation over the last year that relate to these issues,
23 produce them.

24 I think after we get those -- let's see what we get.
25 I mean, really, I'd give them all the benefit of the doubt. I

1 presume that we are going to get a lot. So let's see what we
2 get. If we need to come back to your Honor, we will, but at
3 least we will also have that deposition date. We are willing
4 to take anything. They can give us any day, any time, any
5 location in the next three weeks.

6 So I think if we do it that way, that come Monday,
7 give them, using your best good faith effort, whatever
8 documents you have about your partnerships with FTX that is not
9 burdensome, something you've already gathered, give us a
10 deposition to test those declarations in three weeks, we're
11 done.

12 We have a lot of other important things to do in this
13 case. This is not the most important. I am being honest.
14 Because we are going to have to come back and ask you for
15 things. This I don't think requires that much. I think under
16 any good faith rule they produce to us the documents, we try to
17 work it out, we have a set date for the deposition, and that
18 should be enough.

19 THE COURT: OK. Let me talk to them, because one of
20 the things I want to be clear is I'm not sure what you proposed
21 and the way you proposed it the clarity of what it is they need
22 to do and that there isn't just going to be a fight as to what
23 that is. So I want to be very clear when we get out of here
24 today what it is that you still want, that you're still
25 seeking, and what it is that they are able to produce and

1 whatever I need to rule on and make clear what it is that has
2 to be produced.

3 MR. MOSKOWITZ: Right.

4 THE COURT: If there isn't agreement as to what that
5 is. Unless there is some reason that we need to come back to
6 address this within the next week or two, I don't want to do
7 that.

8 MR. MOSKOWITZ: OK.

9 THE COURT: Because you are not going to get it done
10 during that time period.

11 MR. MOSKOWITZ: Correct, your Honor. And only they
12 know what they have. I don't know what they have.

13 THE COURT: OK.

14 MR. MOSKOWITZ: They have had a year now to go through
15 what they've had, and you can ask them.

16 THE COURT: All right.

17 MR. MOSKOWITZ: Thank you so much, your Honor.

18 THE COURT: OK. Thank you.

19 Mr. Sepulveda.

20 MR. SEPULVEDA: Thank you, your Honor.

21 So we are here today on two of our clients,
22 Ms. Kullberg and Creators Choice. They are both a little bit
23 differently situated.

24 With regards to Ms. Kullberg, we filed a motion for
25 protective order that had two separate bases for relief. One,

1 we filed a 12(b)(5) motion to dismiss for lack of service.
2 That motion was originally filed in May of last year. It was
3 then refiled in September, and during that entire time frame
4 they have not made any efforts to properly effectuate service.

5 In support of the motion to dismiss for improper
6 service, we filed Ms. Kullberg's affidavit where she attested
7 that she has never resided at the address where substitute
8 service was attempted. We also filed a separate affidavit from
9 the then resident of that apartment that testified that
10 Ms. Kullberg has never resided at that apartment.

11 Because of that we filed our motion for 12(b)(5). It
12 remains pending. It is fully briefed. We understand Judge
13 Moore has allowed jurisdictional discovery, but we are asking
14 to defer the jurisdictional discovery as to her during the time
15 that the motion remains pending before the court.

16 THE COURT: I'll tell you, Mr. Sepulveda, that is not
17 going to happen. I do not see where Judge Moore's order allows
18 that.

19 MR. SEPULVEDA: OK. Understood, your Honor.

20 THE COURT: So that's --

21 MR. SEPULVEDA: Understood.

22 THE COURT: Let me start right out that that is not
23 happening.

24 MR. SEPULVEDA: Understood.

25 The second issue, then, your Honor, with regards to

1 Ms. Kullberg is that Judge Moore's order was very specific that
2 what he was allowing was limited jurisdictional discovery.

3 In the plaintiffs' motion, they set forth the type of
4 jurisdictional discovery that they wanted, and at page 13 they
5 set forth that they wanted information regarding the
6 substantial and non-isolated activity with the State of
7 Florida, sales or revenue to Florida. They cited all this
8 discovery that they wanted related to Florida. They never
9 asked for personal service discovery.

10 In Judge Moore's order, he also distinguished between
11 jurisdictional discovery and the discovery as to another one of
12 the codefendants, Mr. Haslem, who is also contesting personal
13 service, and he did not allow any discovery as to personal
14 service.

15 Here, there are interrogatories, 13 through 25, that
16 go solely to the issue of personal service. It asks for
17 information regarding any business contacts that Ms. Kullberg
18 has had anywhere in the United States, every address that she's
19 ever had in the United States, any driver's license address
20 that she's ever had, which is really irrelevant to the issue of
21 did she live in that apartment at the time.

22 They have presented no evidence in opposition to the
23 motion to dismiss establishing that she didn't live there.
24 They've only supplied the affidavit of Mr. Moskowitz, where he
25 attaches a service report that she may have lived there six

1 months before service was effectuated.

2 There is no evidence to contradict the evidence that
3 she did not live in that apartment, your Honor. So this extra
4 discovery that they're seeking related only to service of
5 process, your Honor, we believe should not be allowed and that
6 to the extent the discovery proceeds against her, it should be
7 only as to jurisdictional discovery then, your Honor.

8 THE COURT: OK. Let me stop you right there and I am
9 going to ask you some questions and I am going to have some
10 questions for Mr. Moskowitz to address this issue before we
11 move on to something else.

12 First off, let me say, I've looked at the order. I do
13 think that service of process is a component of personal
14 jurisdiction, and I don't think that it is excluded from the
15 discovery that Judge Moore did, and I also think that the
16 footnote that you cite dealing with Mr. Haslem is very clear
17 that that exclusion of Mr. Haslem is limited to Mr. Haslem and
18 only on the basis of circumstances dealing with Mr. Haslem.

19 So on that basis I think that some discovery on the
20 issue of service of process is appropriate.

21 Having said that, I tend to agree with you that a lot
22 of what is requested in here is not about deciding whether or
23 not service of process was proper, but is really looking for
24 other information, perhaps, to properly effectuate service, and
25 I don't think discovery is proper in that respect.

1 Let me hear from you on that, Mr. Moskowitz.

2 MR. MOSKOWITZ: Yes, your Honor. Again, anything we
3 can do to resolve these differences, we want to. So we are
4 happy to forget the interrogatories. We don't want this to be
5 burdensome on the defendant. So we want the deposition of her.
6 As we know, discovery of service is jurisdictional discovery.
7 The Eleventh Circuit allows that. So we don't want to be
8 burdensome to her. She doesn't have to answer if there is a
9 question about her driver's license. Produce whatever basic
10 documents she currently has about her dealings with FTX and let
11 us take her deposition.

12 I want to work all of these out. She is a very minor
13 player in the spectrum of things.

14 THE COURT: Let me ask you, Mr. Moskowitz, because
15 some of these items, and I don't know that it is just in the
16 interrogatories, because I am concerned about the questions,
17 frankly, at the deposition as well that starts getting into
18 where she is now, what she is doing now, in order to somewhat
19 effectuate service.

20 I don't think you get discovery to figure out how to
21 serve her. You get discovery to show that how you served her
22 was proper. Right?

23 MR. MOSKOWITZ: Right. We will limit the questions,
24 your Honor. I mean, we have the transcript from this hearing.
25 We will not ask her those specific questions.

1 THE COURT: OK.

2 MR. MOSKOWITZ: We don't need to.

3 THE COURT: All right. So you will confine yourself
4 to historical, where she lived on that date, whether she lived
5 in that apartment.

6 MR. MOSKOWITZ: Those specific facts that I put in my
7 declaration, we will focus just on that.

8 THE COURT: OK. Is that acceptable, then, to
9 Ms. Kullberg?

10 MR. SEPULVEDA: Yes, your Honor. We already provided
11 dates to them of, I think it was January 29th and February 1st
12 for Creators and Kullberg, to the extent the court ordered
13 discovery.

14 THE COURT: OK. That works in terms of the dates as
15 well?

16 MR. MOSKOWITZ: Any dates are fine with us, your
17 Honor.

18 THE COURT: OK.

19 MR. MOSKOWITZ: We will cover them.

20 THE COURT: So then does that address, I guess, your
21 objection on the service of process issue?

22 MR. SEPULVEDA: Yes, it does, your Honor.

23 THE COURT: All right. Then let me get down to the
24 other question on personal jurisdiction. What other issues do
25 we have on that, Mr. Sepulveda?

1 MR. SEPULVEDA: Your Honor, there's five requests.
2 None of the requests are limited to contacts with the State of
3 Florida.

4 Starting from No. 5, it asks for all documents
5 regarding whether YBAs or FTT constitutes a security under
6 federal or state law. That is merits-based discovery.

7 THE COURT: OK. Let me stop you right there.

8 What does that have to do with personal jurisdiction?

9 MR. MOSKOWITZ: Your Honor, the law in Florida is not
10 you need to actually commit an act in the State of Florida. I
11 mean, it is one of the differences --

12 THE COURT: No, no, no. I'm asking about whether or
13 not something is or isn't a security.

14 MR. MOSKOWITZ: Right, because if she is promoting an
15 unregistered security and she knew it was an unregistered
16 security, the fact that she is going out promoting it on the
17 internet to millions of people saying you should buy this
18 illegal product furthers the fraud, furthers the conspiracy,
19 furthers what she's doing.

20 THE COURT: If it is an unregistered -- you told me at
21 the beginning of this hearing that the SEC, it's already been
22 determined that it is an unregistered security.

23 MR. MOSKOWITZ: I don't know if somebody is going to
24 come up and contest that, because it hasn't been found in a
25 court of law that it is an unregistered security. I don't

1 think -- Sam went to jail. Nobody is really contesting now
2 what the SEC is saying. If she is willing to say, yes, I agree
3 it is an unregistered security, I don't need to go down that
4 road.

5 Again, it goes back to burdensome. I think what we've
6 learned from people we settled with, they've got a folder.
7 They have all the documents that they have from their FTX.

8 The problem with these influencers is most of them
9 scrubbed the databases and they erased from the internet all of
10 their postings. So we had to spend three months on Archive.org
11 going back to find Erika's posts because they were deleted. So
12 that is something we have asked for. Give us the posts that
13 you made, if you have a copy of them.

14 THE COURT: OK. Let me stop you because that is a
15 different question. Really, what I want to find out is, and
16 let me take a look at --

17 (Pause)

18 THE COURT: The question, I guess, that we're talking
19 about is No. 5 on the --

20 MR. SEPULVEDA: Requests for production.

21 THE COURT: I have the interrogatories in front of me.
22 Let me just pull -- OK.

23 Again, Mr. Moskowitz, whether these documents
24 constitute a security under federal or state law. I guess I'm
25 just not certain how that is just merit based, something on the

1 merits, right. If you've got an agreement and it is an
2 unregistered security, does it matter whether or not she knows
3 it is an unregistered security?

4 MR. MOSKOWITZ: No.

5 THE COURT: So then how is question 5 relevant to your
6 personal jurisdiction?

7 MR. MOSKOWITZ: We can withdraw that.

8 THE COURT: OK. All right. So that is withdrawn
9 then.

10 MR. MOSKOWITZ: I think we asked like five requests to
11 all of these people, total. So when we met with some of them,
12 they are like, we don't have anything. OK. But if that's --

13 THE COURT: Yes. I understand. I am just trying
14 to --

15 MR. MOSKOWITZ: Sure.

16 THE COURT: I am trying to keep it confined within the
17 personal jurisdiction world, and I agree with you in terms of
18 the contracts and agreements. That goes to the conspiracy
19 issue you said. I think any contracts or agreements that they
20 have, there are other things in the communications establishing
21 the agreements, those sorts of things, those do go to the
22 conspiracy on the personal jurisdiction issues that I think
23 Judge Moore found were at issue.

24 MR. MOSKOWITZ: We are happy with just that. I mean,
25 I want to be honest, your Honor. We are going to ask you for

1 things that are very important to the case. These other
2 materials are not. So if we have all of her contracts,
3 agreements, correspondence, payments with FTX, that's good
4 enough.

5 That is the same for the other four social
6 influencers. We will make it easy. If they just give us the
7 documents they have regarding their contracts, their payments,
8 their emails for what they did for FTX, that is all we're
9 seeking. I don't want to make it more complex than it needs to
10 be.

11 THE COURT: OK. I hear you. I see Mr. Sepulveda,
12 he --

13 MR. SEPULVEDA: The devil is in the detail.

14 THE COURT: Let me go back and ask him.

15 MR. SEPULVEDA: Your Honor, going to No. 1, which the
16 request says: All documents and communications, including
17 contracts or agreements, regarding your relationship, directly
18 or indirectly, with FTX.

19 I think Mr. Moskowitz just said he basically wants
20 every single email communication exchanged by our clients with
21 FTX or internally over a two- or three-year period regarding
22 the FTX relationship. If communications, including
23 communications that were outside the state between employees of
24 FTX, I don't think he really wants that, but that is what he is
25 asking for.

1 To the extent there is a contract, I don't believe our
2 contracts actually reference the State of Florida. I'm not
3 sure they would be responsive if they don't. He represented to
4 you that there are some contracts that represent where they are
5 directed to. I think if our contracts don't represent the
6 state -- don't say we target Florida and don't refer to Florida
7 and I know that our contracts were entered into with an entity
8 that was from Delaware and had an Illinois provision, I'm not
9 sure how that really gets him personal jurisdiction in Florida.

10 If your Honor wants us to produce the contracts,
11 that's fine. When you start expanding it to every single
12 communication regarding a three-year relationship, that is not
13 relevant to jurisdiction and it would be burdensome, even
14 though we don't have any affidavits at this point.

15 MR. MOSKOWITZ: Your Honor, it's been a year. They're
16 saying it's burdensome. How do we know?

17 The acts don't have to occur in Florida. I mean,
18 we've talked about that.

19 THE COURT: I understand. We talked about targeting.
20 I think even whether -- Mr. Sepulveda, whether or not the
21 agreement says it does, and I don't know what these agreements
22 look like, if the agreement does and there's some other
23 communication along the way that says, oh, pursuant to our
24 agreement you should be targeting Florida and the response is
25 yes, OK, we will do that, you know.

1 MR. SEPULVEDA: Our position in our meet and confers,
2 we said, look, we'll produce any communications that discuss
3 Florida, relate to Florida, target Florida. We would agree to
4 produce all of that. We don't have a problem with that. We
5 think they're entitled to that.

6 What we have a problem is when you're saying
7 day-to-day communications regarding your FTX relationship, that
8 is overbroad and not relevant to jurisdiction.

9 THE COURT: Again, I am going to go back and forth. I
10 am trying to get my head around exactly what this is because I
11 don't understand exactly what this sort of promoter
12 relationship is.

13 MR. SEPULVEDA: Sure.

14 THE COURT: What is it about that that isn't
15 sufficient? What is it about that that you need for personal
16 jurisdiction purposes?

17 MR. MOSKOWITZ: She has a contract with FTX. We don't
18 even get that, according to what he's saying. He's saying,
19 well, if the contract --

20 THE COURT: No, no, no. You're going to get that.

21 MR. MOSKOWITZ: We're getting all agreements between
22 her -- so I want to be clear --

23 THE COURT: All agreements between --

24 MR. MOSKOWITZ: All agreements between her and FTX,
25 any and all payments that were made, because that is the

1 financial incentive she had to make these promotions, that is
2 good enough. I'm trying to be as honest as possible.

3 It is not limited to Florida. It is any and all
4 agreements with FTX, any addendums, revisions, any letter
5 agreements with revise it, because sometimes they write them
6 letters about their agreement. I'm not telling them to search
7 for thousands of documents. So there can't be that many of
8 those. And then whatever she was paid, the payments. Hey,
9 thank you for promoting our FTX, here's your check, here's what
10 you made. That's it. And it's been a year now.

11 THE COURT: OK. I hear you. I don't disagree with
12 you that it seems to me that that would be burdensome, but I'm
13 not clear how payments go to personal jurisdiction.

14 If they're payments in Florida, if they're payments
15 for things in Florida, yes. If they're just payments, the
16 agreement will say how the payment structure is. You're really
17 talking about the amount, right, and the amount doesn't change
18 whether or not you have long arm jurisdiction under the
19 conspiracy, right.

20 MR. MOSKOWITZ: Right. It is not the most important
21 thing to us, your Honor.

22 THE COURT: I'm not saying that you don't get this
23 down the line on merits discovery if personal jurisdiction is
24 established, right.

25 MR. MOSKOWITZ: Right.

1 THE COURT: I'm just saying we have limited
2 jurisdictional discovery here. So that is what I want to keep
3 it to. What you need to address the jurisdictional issues.

4 MR. MOSKOWITZ: OK. Contracts, agreements.

5 THE COURT: Contracts and agreements.

6 MR. SEPULVEDA: Amendments.

7 THE COURT: And anything that would indicate that
8 Florida is being targeted.

9 MR. SEPULVEDA: Yes.

10 MR. MOSKOWITZ: Yes.

11 THE COURT: OK.

12 MR. MOSKOWITZ: Or not. Hey, don't promote -- when
13 you get on the internet, don't include Florida in your
14 podcasts. Because if not, I presume the internet includes
15 Florida, right. I mean, that is the argument I'm going to
16 make. When you do a promotion on the internet --

17 THE COURT: Sure.

18 MR. MOSKOWITZ: -- YouTube, it hits Florida. If there
19 is something that he has that says, no, we didn't mean to
20 include Florida, of course, show me that.

21 THE COURT: So what we're looking for, and this is
22 going to address for you, and I just want to be clear, both for
23 Kullberg and for Creators Choice?

24 MR. SEPULVEDA: Yes, sir.

25 THE COURT: OK. So it is going to be -- right,

1 Mr. Moskowitz?

2 MR. MOSKOWITZ: Yes, your Honor.

3 THE COURT: So it will be any and all agreements
4 between Kullberg --

5 MR. SEPULVEDA: Or Creators.

6 THE COURT: -- or Creators Choice and FTX.

7 MR. MOSKOWITZ: Or any of their affiliate entities.

8 THE COURT: FTX and any of their affiliated entities,
9 and any agreements or communications that establish or address
10 the targeting of Florida.

11 MR. SEPULVEDA: Understood.

12 MR. MOSKOWITZ: Right. I just want to be clear, if it
13 is, say, the advertising agency Dentsu for FTX, if they signed
14 the agreement on behalf of FTX, it is on behalf of FTX. I
15 don't want to get into some problem.

16 THE COURT: Yes. They are in agreement. So FTX or
17 someone acting --

18 MR. MOSKOWITZ: On their behalf.

19 THE COURT: -- on FTX's behalf. OK.

20 MR. SEPULVEDA: And that will take care of all of
21 them?

22 THE COURT: Does that address everything for both of
23 you in terms of --

24 MR. MOSKOWITZ: We have the two depositions.

25 MR. SEPULVEDA: In regards to the deposition --

1 MR. MOSKOWITZ: The deposition dates?

2 MR. SEPULVEDA: Yes.

3 The one other thing, your Honor, with regards to the
4 service issue, we also had a protective order. I don't know if
5 you still need the deposition of Malik --

6 MR. MOSKOWITZ: Yes.

7 MR. SEPULVEDA: -- or since you're getting Erika,
8 that's OK.

9 MR. MOSKOWITZ: She gave an affidavit, so we
10 definitely want to test the affidavit. You can't give -- or
11 withdraw the affidavit.

12 THE COURT: In our agreement you don't have standing
13 to contest that? Well, let me ask you a question. It seemed
14 to me one of the things that, and I don't know if you've
15 talked, but is there some issue as to a relationship between
16 Ms. Kullberg and Ms. Malik, or how this --

17 MR. SEPULVEDA: I mean, since they're going to be
18 deposing -- maybe if you agree that we can give her, if you're
19 not satisfied with Ms. Kullberg's answers about any
20 relationship she may have.

21 MR. MOSKOWITZ: OK. Let's try that.

22 MR. KAYE: No, no, no. We want both. We want both
23 depositions.

24 MR. MOSKOWITZ: Why?

25 MR. KAYE: Because Arzu Malik gave a declaration that

1 completely contradicts what the process server gave in his
2 service affidavit, and there are a lot of inconsistencies
3 between her position and Kullberg's position, and because they
4 both gave affidavits we think that we should get both of them
5 on those limited issues.

6 MR. MOSKOWITZ: We will limit the deposition, your
7 Honor, to, say, two hours. I mean, we don't want to be
8 burdensome. So we will limit the deposition.

9 If someone affirmatively gives a declaration, it is
10 going to be tested. So we will limit it to two hours.

11 THE COURT: OK.

12 MR. MOSKOWITZ: By Zoom. I will limit it to Zoom, two
13 hours.

14 THE COURT: Two-hour deposition. Again, we are
15 talking about the events on the date of service.

16 MR. MOSKOWITZ: Right.

17 MR. SEPULVEDA: Thank you, your Honor.

18 MR. MOSKOWITZ: Thank you, your Honor.

19 THE COURT: Thank you.

20 MR. EHRLICH: Good afternoon, your Honor. Andrew
21 Ehrlich, from Paul Weiss, on behalf of the Temasek defendants.

22 Would it be agreeable for me to be heard?

23 THE COURT: Sure.

24 MR. EHRLICH: To address some of the comments by
25 Mr. Moskowitz on Temasek, if I could give you just a minute on

1 what Temasek is.

2 Temasek was an equity investor in FTX. It made a
3 preferred equity investment of in excess of \$300 million that
4 was wiped out upon the bankruptcy of FTX. It is a sovereign
5 wealth fund owned by the government of Singapore, based in
6 Singapore.

7 There are two defendants named in these proceedings.
8 One is Temasek Holdings. One is Temasek (USA).

9 In connection with our 12(b)(2) motion, a
10 representative of each of those entities submitted a
11 declaration. It is at ECF-300 in the main case, 300-2 and
12 300-3. In short what they state, which has, importantly, your
13 Honor, never been contradicted by the plaintiffs, which I think
14 is important in the case law in the Eleventh Circuit and in
15 this district.

16 What those affidavits state is Temasek Holdings is a
17 Singapore entity. Its employees are the ones who did the work
18 on the FTX investment, based in Singapore. They never came to
19 Florida. They never went to California.

20 There is a transferred case from California here, your
21 Honor. So both jurisdictions are relevant for purposes of the
22 12(b)(2) motion. Neither party had contact or worked in either
23 jurisdiction, and certainly Temasek Holdings has no presence in
24 the United States, period, full stop.

25 Temasek (USA) is based in New York, has a small office

1 in California. None of the work related to the FTX
2 investment -- the diligence, the investigation, the
3 negotiation -- was done by U.S.-based people. It was all done
4 in Singapore. And there is no contest as to any of those
5 facts.

6 So what is the basis for jurisdiction that is
7 asserted? It is, again, the long arm conspiracy jurisdiction.
8 But what is the conspiracy?

9 I would ask Mr. Moskowitz to identify -- the court
10 well knows for a conspiracy you need the who, what, where, when
11 of the corrupt agreement.

12 The facts that are pleaded truly are Temasek was an
13 investor, and certainly a significant one. It did due
14 diligence, so it must have known, and for a period of time a
15 Temasek employee sat on an honorific advisory board that had no
16 legal authority but was a group of investors that were on an
17 advisory board for a period of time.

18 That is the conspiracy.

19 I think I heard Mr. Moskowitz, I think what he said
20 was it was a validator for FTX. Well, respectfully, that does
21 not constitute the basis for a conspiracy under the law. So
22 what exactly are they entitled to test here?

23 What we agreed to do, voluntarily, is to answer the
24 interrogatories that were propounded as relates to the two
25 parties that were sued, and we agreed to run, and are currently

1 undertaking to run, email searches for communications with FTX,
2 Sam Bankman-Fried, FTX and its agents that would direct or
3 relate to conduct in Florida in connection with Temasek's
4 investment, and we had a meet and confer and we said to
5 plaintiffs, we think that's enough. If there is something else
6 you want us to do, tell us, because what you served two weeks
7 ago were 46 blunderbuss merits discovery requests --
8 information about legal contracts, information about all
9 communications, about everything. Tell us what else you want
10 beyond communications directed at Florida and we'll answer your
11 interrogatories.

12 We didn't get a response. We got a motion.

13 I know no court likes to be burdened by emails between
14 the parties, but it is attached as Exhibit 1 to the motion to
15 compel. You can read for yourself. My partner, Ms. Kovalenko,
16 said, Here's what we'll do; if you have another proposal, tell
17 us. We got a motion five hours later.

18 So as far as we're concerned, your Honor, we behaved
19 in good faith. There is no contradiction of the jurisdictional
20 facts that we've submitted that require jurisdictional
21 discovery, whether it is the Cortazar case or the Serra-Cruz
22 case or the Zapata case, all cases in this district that hold
23 jurisdictional discovery is not appropriate in the context of
24 an absence of a fact question, but we recognize Judge Moore
25 ordered it and we are going to obviously comply in good faith

1 with his order. We think we made an appropriate proposal. We
2 think we are doing enough.

3 Incidentally, in light of this record, it does not
4 seem appropriate to us to burden people halfway across the
5 world with depositions when we have yet to see a meaningful
6 fact question. So that is how we see the world, your Honor.

7 THE COURT: OK. Mr. Moskowitz, I am going to go back
8 to the same question I had before.

9 I agree that some of this discovery requested was very
10 detailed, and I could not see how, other than in the most
11 tangential ways, it was related to personal jurisdiction,
12 especially proportional, the time and the limited discovery
13 that Judge Moore has granted you. So what I'm asking again is,
14 what do you really need?

15 MR. MOSKOWITZ: Yes.

16 THE COURT: They have said they are going to answer
17 all your interrogatories, right, on behalf of the two parties.
18 Are we good then on the interrogatories?

19 MR. MOSKOWITZ: Yes, your Honor.

20 THE COURT: OK.

21 MR. MOSKOWITZ: So the deposition we clearly need to
22 take because he gave a sworn declaration of somebody from his
23 company Temasek, and there are other references to (ONE)
24 Temasek. We don't know the organizational structure. We don't
25 have to take his word for it. We are not at a motion to

1 dismiss the conspiracy allegations today. We are just here to
2 figure out who is the right party.

3 So we want the one deposition of the company, which,
4 under oath, we are going to question his declaration, and we'd
5 like the documents of his connection with FTX, with the
6 company, so we can see which entity entered into the deals with
7 FTX. There are different ones. He says there is a Temasek
8 (USA), Temasek Singapore. Let's see the contracts. Let's see
9 the agreements between you and FTX so we can see who's there,
10 and we ask for some basic organizational structure. How is the
11 company structured? That's it. We don't need all the others.

12 I agree, your Honor, we have had many meet and
13 confers. We have 32 law firms helping us. They've got 50 law
14 firms. So I think on both sides we are all trying to do our
15 best. But we could cut it down to give us the interrogatory
16 answers, give us any and all agreements with FTX, give us your
17 organizational structure, and give us a date for a deposition
18 or withdraw your declaration. I mean, if you're going to put a
19 declaration into the record, we have to test it. And give us
20 any date in the next three weeks. That would be sufficient for
21 us.

22 THE COURT: OK. Let me come back to you. Excuse me,
23 because I have to tell you, I'm terrible with names. Remind
24 me.

25 MR. EHRLICH: Yes. It is Andrew Ehrlich.

1 THE COURT: Ehrlich. I should remember that. Yes.

2 MR. EHRLICH: On behalf of Temasek.

3 So a couple of things, your Honor. One, the
4 declarations, Mr. Moskowitz may not have read the declarations
5 we submitted. They are very clear. They say Temasek Holdings
6 has a subsidiary. It identifies the subsidiary and the
7 subsidiary of that. Artz Holdings, Inc. is the party that made
8 the investment. We told them who made the investment in the
9 declaration. The interrogatories ask for what's the structure,
10 how is it owned, who does what, who are the people. We are
11 going to answer the interrogatories.

12 So I still don't hear the question that requires
13 probing of a witness where there is not a factual dispute,
14 because that is the touchstone of the cases -- is there a
15 factual dispute. You don't get to take discovery just because
16 you want to test something where it is not controverted, at
17 least in the jurisdictional context.

18 THE COURT: Well, look, I understand your argument,
19 Mr. Urlich, but in my view that ship has sailed because Judge
20 Moore found that there was enough contested and disputed that
21 it warranted jurisdictional discovery, and he did identify what
22 he viewed as being in play, I think, in the motion when he
23 talked about, in terms of Temasek, it was the contact with the
24 forum state and the purported corporate separateness, right.
25 So it is the interrelatedness of the companies.

1 MR. EHRLICH: OK, your Honor. Understood.

2 THE COURT: And I understand that you don't agree with
3 that, but that is his ruling. That is the law of the case as
4 far as I am concerned.

5 MR. EHRLICH: Understood, your Honor, and understood
6 on the contracts, the agreements. We'll provide those. I
7 would ask for the same accommodation.

8 It doesn't seem to me that, if this is done
9 efficiently, this needs to be more than a two-hour event. The
10 organizational structure is going to be clear in the
11 interrogatories. It, frankly, was already clear in the
12 affidavit. It is not that complicated. There are four
13 entities.

14 MR. MOSKOWITZ: Your Honor, no. We said two hours for
15 a woman that is giving an affidavit about a service.

16 Let's not forget, the bankruptcy court has said it's
17 \$6 billion in damages. They may be liable for \$6 billion. So
18 let's put this in context here.

19 There's two companies. He said there's two separate
20 companies. We want one seven-hour deposition of each of them.
21 He says they're in Singapore. Do them by Zoom. I mean, there
22 is no burdensome to wake up, do a deposition, wake up, do a
23 deposition.

24 THE COURT: OK.

25 MR. MOSKOWITZ: And just the areas that the judge has

1 said to go into.

2 THE COURT: I hear you and I understand. Frankly, I
3 agree that a deposition is appropriate. Given the personal
4 jurisdictional issues here, two seven-hour depositions seem a
5 bit much.

6 MR. MOSKOWITZ: It is a lot. It is a lot. We don't
7 take long depositions. How about if we agree on four hours, a
8 four-hour deposition of each.

9 THE COURT: I think a half-day deposition.

10 Mr. Ehrlich.

11 MR. EHRLICH: Half of the seven hours allotted by the
12 federal rules.

13 THE COURT: Let's keep it at four hours.

14 MR. EHRLICH: OK. Your Honor, I do want to just
15 respond to something Mr. Moskowitz said. I don't know who said
16 we are liable for \$6 billion. This thing has been scrutinized
17 all over the place. Temasek has never been charged by any
18 regulator anywhere. So I am not sure what that --

19 THE COURT: Look, I don't intend on passing upon any
20 of that here today.

21 MR. EHRLICH: Of course.

22 THE COURT: All I am doing here today -- understand,
23 there's a lot that is going to be litigated in this case.

24 MR. EHRLICH: Right.

25 THE COURT: All I'm addressing here is the discovery

1 that is needed on this jurisdictional basis that Judge Moore
2 has ordered. That is really it.

3 MR. EHRLICH: Thank you.

4 THE COURT: Again, let me be clear. For each of these
5 two parties it will be a four-hour deposition on personal
6 jurisdictional issues of the corporate entities, including the
7 issues that Judge Moore has talked about, the interrelatedness
8 and the contacts with the forum state.

9 MR. EHRLICH: OK.

10 THE COURT: That is what the issue should be.

11 MR. EHRLICH: Understood.

12 THE COURT: That will go to the contracts and
13 agreements and the basics of that. So the contracts and
14 agreements will be produced. The organizational structure, you
15 will answer the interrogatories. Each of the parties will
16 answer as to themselves.

17 Is that it then?

18 MR. MOSKOWITZ: Just give us a deposition date, say,
19 next week, in two weeks, before the deadline.

20 MR. EHRLICH: We will have one promptly and it will be
21 within the deadline.

22 MR. MOSKOWITZ: Great.

23 THE COURT: OK.

24 MR. MOSKOWITZ: Thank you, your Honor.

25 MR. EHRLICH: Thank you, your Honor.

1 THE COURT: Very good. Thank you.

2 MS. BUCHWALD: Your Honor, Lara Samet Buchwald, of
3 Davis Polk, on behalf of defendant Deltec as well as Jean
4 Chalopin, that is the chairman of Deltec Bank & Trust.

5 If I may, your Honor, we are both responding to their
6 motion to compel as well as we filed our own motion to quash
7 and for a protective order.

8 If I can set the stage for a second, because I think
9 we are slightly differently positioned, and I think it came
10 through in our papers, but I just want to make the issue clear.

11 Deltec is a Bahamas-based bank. Mr. Chalopin is a
12 Bahamas resident and citizen, also the chairman of the bank.

13 The plaintiffs' allegations, candidly, are not what
14 you just heard from Mr. Moskowitz earlier. They are contained
15 in a handful of pages. They allege that we are both Bahamas
16 residents, and there are no allegations of specific conduct,
17 case-related conduct relating to Florida. There is also a
18 separate Washington complaint that hasn't been served. There
19 is the same thing, no allegations with respect to Washington.

20 We have tried to engage on these personal jurisdiction
21 issues for some time. Obviously, without success.

22 The key backdrop here, which, again, positions us
23 differently and creates a bigger issue, that can't easily be
24 resolved by a meeting in the middle, is that there is a
25 specific Bahamas law that prohibits my clients from responding

1 and disclosing anything about their customers.

2 So we have a declaration in from Lanecia Darville. It
3 is at, I believe, 470-1 on ECF.

4 THE COURT: I've reviewed it. Yes.

5 MS. BUCHWALD: OK. Excellent.

6 So what that declaration talks about is the interplay
7 of two statutes. It is the Bank & Trust Companies Regulations
8 Act of 2020, which is actually -- there was a repealed earlier
9 version from 1965, and then there is the Evidence (Proceedings
10 in other Jurisdictions) Act.

11 The way that the statutes operate is that the Bank Act
12 says you as a bank, as well as your employees and your officers
13 and your directors, cannot disclose information about a
14 customer's identity, assets, liabilities, accounts, etc., and
15 then there is an exception. The exception says unless you have
16 an order from the Bahamas Supreme Court, or I think the
17 language is a court of competent jurisdiction within the
18 Bahamas, that lawfully requires a response.

19 So we have explained what that approach would be and
20 how to do it, but absent that we are subject to fines as well
21 as imprisonment if we respond.

22 Now, I then take a step back and say, well, let's look
23 at the requests and do the requests really seek customer
24 information or not.

25 We are in the position, I think, like some of the

1 others here -- not like the folks who got five requests but who
2 received 40 and kind of charitably construed probably 70
3 requests -- that ask for everything about account information
4 not only of FTX entities but every agent and representative and
5 employee of FTX. We're asked about audits. We're asked about
6 any sort of information concerning monitoring accounts. These
7 are extremely substantive. Frankly, they go beyond merits-type
8 discovery requests.

9 So when you think about is there a way to thread the
10 needle where you're not violating the Bank Act in responding,
11 we don't see any way to do it, which is why from the beginning
12 we said -- by the way, from the beginning is not a year ago.
13 We got these discovery requests on the Friday before
14 Christmas -- we said, look, there is an issue here. There is
15 the Evidence (Proceedings in other Jurisdictions) Act and this
16 is the way we can respond to appropriately-tailored discovery.
17 We were told, no, we are going to stand on our discovery.

18 That is where we are. It leaves us, frankly,
19 differently positioned than the others.

20 When I think about both the framework -- and I think
21 we and plaintiffs both agree that where you have the conflict
22 between their requests and between a foreign law that applies,
23 you are looking at the Supreme Court's decision in
24 Aerospatiale, and they talk and they start kind of from the
25 premise of the idea that, look, we are not going to have a

1 blanket rule that foreign laws will always trump the federal
2 rules, but what we are going to say is you have to be cautious,
3 right, you have to be able to understand that when you have
4 foreign litigants, you give them special vigilance, and when
5 you have foreign litigants, you take care to be able to
6 navigate these particular issues.

7 What the Supreme Court said is for, quote-unquote,
8 delicate issues like that we're not going to give you a rule,
9 but we'll drop a footnote and here are some factors to
10 consider, and the factors we seemingly agree with. The
11 application of them we don't.

12 The reality is what you have here is extremely
13 overbroad requests that are relating to a motion that we made
14 which is challenging the facial sufficiency of their pleadings.

15 So they allege that we are a Bahamas-based bank and a
16 Bahamas-based chairman, individual, and there are no
17 allegations beyond that. So we don't even put in a declaration
18 contesting jurisdictional facts because we're moving to dismiss
19 on the basis of their own allegations.

20 So when you talk about kind of the first factor, the
21 necessity of the information, from our perspective, again,
22 there is nothing that is needed.

23 Then you go on to the various different factors,
24 including whether the information originated in the U.S.
25 Deltec is a Bahamas-based bank. It doesn't have servers in the

1 U.S., it doesn't have documents in the U.S., it doesn't have
2 information originating in the U.S. The same thing with
3 Mr. Chalopin. He is a Bahamas resident.

4 Then when you go on to the extent to which
5 noncompliance would violate either U.S. policy interests or
6 compliance would violate Bahamian policy interests, that is
7 where you have, again, decades and decades of a statute being
8 in place that says Bahamas-based banks, you may not disclose
9 this information or we're going to impose a penalty and we're
10 going to send you to jail.

11 So I don't have the ability standing here to say, you
12 know what, these handful of things, if we are going to narrow
13 it down, we will be OK, because the reality is unless we are
14 taking everything off the table that relates to customers,
15 we're faced with the same Hobbesian choice where we either
16 respond or we're subject to criminal sanction in the Bahamas.

17 So, again, I think that is where we are. It is from a
18 kind of policy perspective. When you think about the policies
19 that underlie personal jurisdiction, quite challenging, because
20 we do have -- again, I understand Mr. Moskowitz may disagree --
21 we have this very small Bahamas-based bank, and when you think
22 about, again, due process inquiries, when you think about
23 whether there is specific jurisdiction, when you think about
24 whether they would anticipate being haled into court and on
25 defending their jurisdiction would have to make merits-based

1 discovery and potentially risk criminal sanction in the U.S.,
2 that is where the rubber meets the road.

3 THE COURT: Well, before you start, Mr. Moskowitz, let
4 me ask you a question. Ms. Buchwald?

5 MS. BUCHWALD: Yes.

6 THE COURT: I hear your argument and I appreciate the
7 circumstances that it puts your clients in, but, again, I'm
8 looking at Judge Moore's order. He ordered your clients to
9 engage in jurisdictional discovery.

10 What you are saying is jurisdictional discovery
11 doesn't apply to us. That is done. He's already decided that
12 it does, right. That is what this order says. All defendants,
13 and that includes your clients, have to engage in
14 jurisdictional discovery, limited jurisdictional discovery.

15 MS. BUCHWALD: I would say two things. Number one is,
16 the issue of whether we could comply wasn't yet before the
17 court. So we haven't had the opportunity --

18 THE COURT: Why was that?

19 MS. BUCHWALD: Because the request was made to lift
20 the stay by plaintiffs. This wasn't on our motion.

21 THE COURT: But you responded, and there is a line in
22 your response that says this may violate Bahamas law and
23 doesn't go beyond that. So that is in there. So Judge Moore
24 presumably was told something and someone at least flagged the
25 beginning of this issue, and he went ahead and he ordered

1 discovery.

2 If you didn't tell him, whether jurisdictional or any
3 other discovery, no one argued in more detail. This Bahamas
4 statute wasn't cited to Judge Moore.

5 MS. BUCHWALD: What I would say, your Honor, is that
6 obviously we have moved for a protective order and to quash.
7 That is a separate motion that we've made that raises these
8 issues that puts in the relevant evidence on that piece.

9 So, sure, I don't think Judge Moore appreciated when
10 he said limited jurisdictional discovery that it would create a
11 situation for a defendant where in responding we'd potentially
12 risk criminal penalties. That is number one.

13 Number two, limited jurisdictional discovery doesn't
14 necessarily entail dozens of pages of requests.

15 THE COURT: That is a different question, and I will
16 address that. The first one I want to do because the motion to
17 quash on this, as far as I'm concerned, Judge Moore said there
18 is jurisdictional discovery and it is not within my purview to
19 say, eh, Judge Moore didn't fully appreciate this and his order
20 doesn't apply. If you want him to consider that, then, as far
21 as I'm concerned, that is a motion to reconsider or something
22 to him on the jurisdictional discovery issue and you argue
23 this.

24 He has said that there is jurisdictional discovery,
25 and that is not something that I think I can nor do I have any

1 willingness to overrule. That doesn't mean that of some the
2 issues that are raised, that you've raised, don't impact, I
3 think, the scope of discovery that is in play, because I think
4 they do, at the very least.

5 I'm not sure how far this discovery extends in terms
6 of the information that is being provided. I just don't think
7 that is something that I can do, and I think under the case law
8 too I'm not sure that, even going through the factors, it is
9 clear to me that this discovery isn't appropriate, especially
10 given the time lines that are involved here.

11 How long does it take to go through this process in
12 the Bahamas?

13 MS. BUCHWALD: The answer is I don't know, but we have
14 fully-briefed motions to dismiss. So the reality is if it
15 takes time and they want to ask the court for more time and to
16 hold that motion in abeyance, that may be a way to do it.

17 THE COURT: Judge Moore has said that this is his time
18 line. What I'm here to do is enforce his time line in his
19 orders, not to change them.

20 As far as I'm concerned, if that is the issue, that is
21 something that you need to take to Judge Moore.

22 MS. BUCHWALD: OK. Again, I think the issue is,
23 again, we are differently situated. We have a statute that is
24 very explicit and on point.

25 THE COURT: I don't disagree with you on that. You

1 are in a different situation and the considerations are
2 different, but we have a ruling in place.

3 I'm not certain that even under the Supreme Court's
4 case -- the Third Circuit case that I think plaintiffs cited,
5 Automotive Refinishing, is very instructive on the fact that
6 these principles apply to jurisdictional discovery and that
7 jurisdictional discovery can go forward under these
8 circumstances.

9 Given the time lines that Judge Moore has ordered and
10 his finding that jurisdictional discovery is appropriate that,
11 absent something that you're going to tell me that there is
12 some way to get this done under Bahamian law in this way, I
13 think that this is going forward under the Rules of Civil
14 Procedure and the discovery rules.

15 MS. BUCHWALD: A couple of thoughts. Number one is,
16 with respect to the Third Circuit case, there is a Supreme
17 Court case, right. There is Aerospatiale, which really talks
18 about how do you deal in this framework. So I think --

19 THE COURT: And the Third Circuit case applies it,
20 right?

21 MS. BUCHWALD: The Third Circuit case applies it.
22 Different facts, but the Third Circuit case applies it.

23 The Third Circuit case is also talking about whether
24 you have a uniform rule. In other words, as a blanket rule you
25 must go to the foreign law before you can consider the federal

1 rules. We are not arguing for that.

2 We are saying in our specific situation, where we have
3 a specific statute that says you may not provide this or you
4 risk penalty or you risk going to jail, then given where we are
5 and given the fact that our motion is quite literally only
6 challenging the facial sufficiency of their complaint that it
7 is a different situation here than you have in any of the cases
8 that we have seen on a cite.

9 So that is where we stand.

10 Look, if there were a situation in which they came to
11 us and said, you know what, I see that you have a challenge. I
12 see that you have a challenge. Actually, what we are going to
13 ask for is what we really think of as true jurisdictional
14 discovery. Do you have licenses in Florida. Do you have
15 physical buildings in Florida. Maybe we get there and we can
16 figure out a way to conclude that doesn't violate the Bank Act
17 and that doesn't violate --

18 THE COURT: How could that violate the Bank Act? Even
19 what you've cited, it only has to do with customer information,
20 right?

21 MS. BUCHWALD: It only has to do with customer
22 information, but, again --

23 THE COURT: That wouldn't be customer information
24 anyway.

25 MS. BUCHWALD: I agree, but that is not what they're

1 seeking. If you look at their requests, you can go through one
2 by one by one and the vast majority are seeking customer
3 information. Tons of customer information.

4 To the extent that there are ones that don't
5 technically require customer information, they are wildly
6 unrelated to jurisdictional discovery. Can I have any audits
7 that have ever been conducted of your bank.

8 So where we are is, if there were something that were
9 narrow and appropriate, I suspect we could get there, but when
10 we raise the issue both about breadth and with respect to, here
11 is the particular challenge we're facing, we were told, yeah,
12 too bad.

13 Again, if there is a way to thread the needle, if
14 there is a way to get comfortable, we will try to do it, but I
15 think the reality is, again, we are facing situations and we
16 are facing a choice that is impossible for our clients to make.

17 THE COURT: OK. Let me hear from Mr. Moskowitz.

18 MR. MOSKOWITZ: Your Honor, I told you before that
19 there are things that we need and things that are important and
20 things that are not. This is troubling. Let me explain why.

21 A few weeks ago we informed Deltec, you are not a
22 domestic bank, you do not have a dealer's license, and you
23 can't handle Bahamian dollars. You're not a Bahamian bank.
24 You're an international bank. We told them that their
25 disclosures with FTX describes Deltec is a global financial and

1 insurance services group for innovators, entrepreneurs and
2 their networks. Deltec empowers SMEs, their founders, their
3 investors, blah, blah, blah, goes on a lot more.

4 We told them that there's a lot of Deltec divisions.
5 Deltec Asset Management Group, offices in New York, Nassau,
6 London. There is a Deltec International Group. Offices in New
7 York. FTX, Delchain, Deltec Bank & Trust.

8 What is going on here? We are not just saying --
9 credibility is everything. So to say that Deltec is a tiny --
10 and they said it again -- it is a tiny little Bahamian bank,
11 that is not true.

12 Before FTX got involved with them, the reason Sam went
13 to them is because they were backing the stablecoin Tether for
14 billions of dollars. 30, 40, billions of dollars Mr. Chalopin
15 had to physically have to back the coin. He is not a local
16 Bahamian bank.

17 So what have I heard in the last three weeks. I see
18 an affidavit citing some Bahamian statute. Fine. But they
19 better be very careful if they're saying under oath that this
20 is a Bahamian bank, because I asked them three weeks ago. I
21 said, it is not a Bahamian bank. I have never seen or heard or
22 read anything to the difference. So that is why this
23 deposition is crucial.

24 There is a reason they keep saying we're a small bank,
25 we're a small bank. How did you back Tether? That is \$30

1 billion. It is an international conglomerate.

2 So I know all we have is our credibility. I just
3 don't understand how they can keep saying, well, now we're a
4 Bahamian bank and there's a Bahamian statute. We address that.
5 The U.S. Supreme Court addressed even if they are a Bahamian
6 bank, but I'm suspicious here. There's so much going on. I
7 think this deposition is going to be the most insightful.

8 Think about it. Each of the accounts that came in,
9 Sam said, I transferred from Alameda to FTX, secretly,
10 illegally. He did that at Deltec. Deltec had Alameda accounts
11 and they had FTX accounts and they were transferring between
12 them. So I don't know how they could make this argument we're
13 just a local Bahamian bank. You can't deposit a Bahamian
14 dollar.

15 So I haven't, A, seen any evidence that they are a
16 Bahamian bank, to start there. I have seen evidence that they
17 are an international bank that probably handles more crypto in
18 the world than anybody else, and Mr. Chalopin is a billionaire.
19 So I get a little upset when somebody kind of leads us down
20 this road.

21 We want a deposition. Let's get under oath what the
22 Deltec conglomerate is, what was Deltec's involvement, how did
23 they buy Farmington Bank. These things -- we're not going to
24 be burdensome. We will do it by Zoom. There is something here
25 that is fishy.

1 THE COURT: Look, Mr. Moskowitz, again, a lot of this
2 may be good and appropriate merits discovery, but, again, the
3 order is for limited jurisdictional discovery on the issue of
4 personal jurisdiction.

5 MR. MOSKOWITZ: Absolutely, your Honor.

6 THE COURT: Obviously, Judge Moore did not want full
7 merits discovery to go forward because he kept that stay in
8 place.

9 MR. MOSKOWITZ: We are going to limit it just like we
10 did with the other defendants, your Honor.

11 THE COURT: How are we going to get there?

12 MR. MOSKOWITZ: We're going to ask them about -- OK.

13 THE COURT: I understand, and it is somewhat
14 concerning, right, any time you enter an order that is doing
15 something that someone might be forced to violate the law of
16 where they live, and that is not something that is not
17 concerning.

18 I think the law is that that can be done and it is
19 appropriate to do it in certain circumstances, and regardless
20 of the case, I think that is done. I think that Judge Moore
21 has just said they have to do discovery. So I think my goal,
22 my role here is simply to figure out what the scope of that
23 discovery is.

24 MR. MOSKOWITZ: As I've explained, we are going to ask
25 them about the corporate structure, about Deltec Asset

1 Management Group, Deltec International Group, Delchain, Deltec
2 Bank & Trust, how they each are related to each other, who
3 actually handled the FTX and Alameda accounts, are they a
4 Bahamian bank, are they a registered Bahamian bank, and then we
5 have events which we told them about that occurred in Miami.
6 We actually have --

7 THE COURT: Let me stop you right there,
8 Mr. Moskowitz.

9 Let me ask Ms. Buchwald. Corporate structure, who
10 handled the client, all that sort of stuff, it seems to me that
11 that is not client information, right? That is not customer
12 information. That is information about the bank.

13 MS. BUCHWALD: Is this mic on?

14 THE COURT: Yes.

15 MS. BUCHWALD: OK. With respect to the corporate
16 structure, I agree with you.

17 With respect to who handled the client, again, I'm not
18 a Bahamas lawyer nor am I a Bahamian lawyer, but I'm not a
19 Bahamas lawyer, and it depends on what the phrasing is and what
20 the questions are. So where I don't want to lead folks are to
21 a situation in which we are saying no to every answer, because
22 you can't do that.

23 So with respect to corporate structure, I agree with
24 you that corporate structure is not an issue. If that is what
25 they were limited to, we would be able to respond to that.

1 THE COURT: OK. Mr. Moskowitz, what I'm trying -- I
2 think you both see what I'm trying to do is, I'm trying to get
3 to someplace where there are things that -- I want to get you
4 what you need to address jurisdictional discovery and I want to
5 do as best I can without them having to run afoul of any
6 potential violations of Bahamian law.

7 MR. MOSKOWITZ: Sure.

8 THE COURT: We may not be able to accomplish that, but
9 there may be some things that we are in agreement are going to
10 be.

11 So I want to start and go there and see where we are
12 on that, and then we can go forward and see what else is
13 involved.

14 MR. MOSKOWITZ: I think the seminal issue which we'll
15 ask is, are you a Bahamian bank, because the information we've
16 received is they're not. I mean, that is a pretty basic
17 question, right. You'd think in the last three weeks they
18 could have come back to us and said, Adam, the people that are
19 talking to you, they don't know what they're talking about.
20 Here are our records. Here. We are a small bank in the
21 Bahamas. We haven't seen anything about that. So that is the
22 first area.

23 Then we have news that they were in Miami. Deltec
24 International Group, Delchain Limited and Realm Insurance, who
25 Deltec owns, they all did all of these seminars in Miami. Why?

1 They said: The event's a great opportunity to network with
2 potential clients and spread the word about the Deltec group of
3 customers and our wide range of services and benefits.

4 I could ask them about that. That is not going to
5 violate any Bahamian law.

6 THE COURT: OK. So what we are talking about is --
7 let's go through it -- whether or not -- I guess what type of
8 institution it is, right?

9 MR. MOSKOWITZ: Right.

10 THE COURT: What the corporation is. What type of
11 institution it is.

12 MR. MOSKOWITZ: And then what role did these
13 subsidiaries play in the FTX events, right.

14 Maybe Realm Insurance, which offers crypto insurance,
15 had no involvement. That's a pretty simple question. They had
16 no contact with Sam or no contact with FTX. But every one of
17 the PR, press releases that they put out said that they are a
18 global financial and services group. It doesn't say they are a
19 local Bahamian bank. How could a local Bahamian bank have \$30
20 billion in Tether. It is illogical.

21 So we are going to ask them all about what they did
22 for FTX. We are not violating anybody else. It just doesn't
23 really make sense. I mean, FTX has already -- Sam's already
24 been convicted of fraud. He committed fraud. Their concern is
25 that the Bahamas authorities -- they're not in the Bahamas

1 liquidation. There was a liquidator there. He didn't involve
2 Deltec Bank. I may ask them about that. We can ask them about
3 it. They are not in that. They weren't brought into the
4 receivership. They have nothing to do with it because, our
5 opinion, it is an international bank. It is not Bahamas.

6 So we are just going to ask all of these questions and
7 see the documents from them about their corporate structure and
8 the relationship between these four Deltec subsidiaries, and we
9 could narrow this dep to four hours too. That shouldn't take a
10 long time.

11 THE COURT: Let me see where we are.

12 MR. MOSKOWITZ: Thank you.

13 THE COURT: No, no. I want to ask you some questions
14 about this because, again, I think -- and the issues I am going
15 to address now are really going to be the scope of the
16 discovery.

17 Ms. Buchwald, I think, as I've said, I think the
18 motion to quash and for protective order, I am going to deny.
19 I think that you need to take to Judge Moore on a motion for
20 reconsideration. So that is going to be denied.

21 Then I think the issue is -- I take it under the
22 cases, Societe Aerospatiale, right?

23 MS. BUCHWALD: Your guess is as good as mine.

24 THE COURT: In that case, I think the considerations
25 of what discovery is and I think a court is required to be even

1 more stringent on discovery dealing with a foreign national.

2 So I do want to make sure that this is very tightly limited to
3 the personal jurisdictions.

4 Again, I grant you that there are merits issues that
5 are tied into that, but I don't want to go forward and have
6 situations where this isn't going forward because there is some
7 unresolved issue as to what has to be answered and what doesn't
8 have to be answered and what has to be produced and what
9 doesn't have to be produced.

10 So where are we? Let's start with the production.
11 Documents. What are the documents that you need? Because I
12 think a lot of the documents that we are talking about are bank
13 operational documents, internal, how they handle accounts and
14 how they do this. I don't see how those deal with personal
15 jurisdiction except in the most tangential ways.

16 MR. MOSKOWITZ: Right. At this stage, your Honor --
17 again, we are just asking what we need -- give us the
18 contracts, the agreements you set up with FTX, Sam, and all of
19 his companies and subsidiaries. Show us the contracts.

20 The contracts, your Honor, actually list the names of
21 the entities, and you saw there's six different Deltec
22 entities. So who is the entity that signed the agreements with
23 them, right.

24 THE COURT: Just so we're clear, we are not talking
25 about regular depository agreements, right.

1 MR. MOSKOWITZ: Not at all. FTX. We are just saying
2 FTX. We are not saying somebody who just put their --

3 THE COURT: No, no.

4 MR. MOSKOWITZ: -- savings account.

5 THE COURT: I'm saying, you're not just saying a bank
6 depository account that FTX had. You're talking about some --

7 MR. MOSKOWITZ: Global master agreement whereby people
8 could send in money directly to FTX.

9 I don't want to know the customer's name, I don't want
10 to know any privacy concerns of that person, but they must have
11 had agreements with FTX -- this is what we're going to do for
12 you; these are the services we are going to provide for you.

13 So much has been disclosed. I mean, what hasn't been
14 disclosed about the relationship with FTX that the receiver
15 doesn't have. The receiver has every page of materials from
16 the FTX account. So it is kind of silly. I mean, she didn't
17 address any of that.

18 The receiver right now is sitting on the FTX servers.
19 He has every email, every bank statement, every everything.
20 We've talked to the insiders who told us all about them. So it
21 is sort of like -- it is not really a true world to say we're
22 nervous. There is no way the Bahamas is going to come after
23 them because it's all been disclosed already to the receiver.

24 So what we are going to ask is about the different
25 entities of Deltec, the relationship to them. We'd like their

1 documents in terms of any agreements which they entered into
2 with FTX regarding what they would do for FTX, and then we'll
3 ask them about these other entities, the Deltec International
4 Group, these other entities, contacts they've had in Miami. We
5 know they had various events. We'll ask them about that. And
6 then Farmington Bank. They bought a bank in Seattle,
7 Washington. Mr. Chalopin bought it for \$3 million. He turned
8 around and sold it with Sam. I mean, real questionable
9 allegations there. Then the insider at FTX got a special
10 kickback. There is stuff there that have nothing to do with
11 Bahamas Bankrupt Secrecy Act.

12 So Farmington Bank in Seattle, we are going to ask a
13 little bit about that -- how did you situate with that, how did
14 you sell it, buy it, whatever -- and that's it. We will limit
15 this to four hours by Zoom.

16 MS. BUCHWALD: Your Honor, if I may, briefly.

17 THE COURT: You may.

18 MS. BUCHWALD: So I'm not going to respond point by
19 point to some of the substantive things that were said there.

20 In large part what I'll say is, when things don't show
21 up in a complaint and you can't plead them consistent with Rule
22 11 but then you say them as if they're true, it is pretty
23 problematic.

24 In any event, with respect to kind of the broader
25 picture of how we move forward. Number one is, again, I'm not

1 a Bahamas lawyer so I can't say that the categories that are
2 here are entirely fine. What I would say is as a matter of
3 logic things like the banking license, there should be a way
4 through with the banking license. The corporate structure,
5 there should be a way through.

6 When you go beyond that, what did every entity in a
7 corporate group have, what are their contacts and what did they
8 do, you're dealing with an issue of possession, custody, and
9 control. You have a group that has different entities, that
10 has different businesses, and the idea that somehow that the
11 regulated bank has all of this information, I don't know that
12 they do.

13 What I would say is this. I am very concerned that if
14 a deposition is ordered, we are going to be in a world where
15 every single question asks about customer information, and I'm
16 going to be there directing a witness not to respond to every
17 question. No one wants to be in that position.

18 If there is a way that we can frame this in terms of
19 interrogatories or in terms of a written deposition, which I
20 know none of us do but it is there under the federal rules, so
21 that we can respond, and then if there is something else to
22 talk about, we can talk about it. That might be a way through
23 this that doesn't raise all of the tricky, thorny issues with
24 respect to potential criminal liability here.

25 THE COURT: OK. Mr. Moskowitz, my concern, and I

1 think what I'm hearing -- and, Ms. Buchwald, you tell me -- is
2 I guess the party that has been served, is it Deltec Bank?

3 MS. BUCHWALD: Deltec Bank & Trust was served with the
4 Florida complaint, not the Washington complaint, but yes.

5 THE COURT: That that is an entity that may not have
6 all this information because of where it falls within, perhaps,
7 the structure that you have described. I don't know, but it
8 does sound to me like I'm hearing something to that effect when
9 I hear the regulated bank.

10 MR. MOSKOWITZ: I could say this, your Honor.
11 Mr. Chalopin said -- and she can correct me if I'm wrong -- I
12 run Deltec Bank and I run all the other Deltec entities.
13 Mr. Chalopin.

14 THE COURT: That may be a whole different issue as to
15 Mr. Chalopin because he may have those answers. OK.

16 This is what I am going to do at this point.
17 Obviously, it is what is in their possession, custody, or
18 control, as in all cases, but the parties here will have to
19 turn over all contracts and agreements that they and other
20 entities, other Deltec entities that they -- of other Deltec
21 entities which are in their custody, possession, and control
22 that are with FTX or one of the FTX entities.

23 Now, look, will also have to produce documents
24 regarding the banking license and corporate structure, and I
25 think that is all we were talking about in terms of documents,

1 is that right?

2 MR. MOSKOWITZ: Yes, your Honor.

3 THE COURT: What was it in terms of Farmington Bank?

4 MR. MOSKOWITZ: Whatever documents or materials they
5 have about their purchase and sale to FTX of the bank, because
6 FTX then used Farmington Bank as another conduit of their
7 funds.

8 THE COURT: Who is --

9 MS. BUCHWALD: So to be clear, your Honor, Deltec
10 didn't purchase Farmington Bank. Farmington Bank also doesn't
11 have a jurisdictional defense that's live.

12 MR. MOSKOWITZ: Your Honor, it's OK. Again, let's try
13 to cut this. In our deposition, we could ask them, maybe we
14 will briefly ask them a question about it, but we won't go into
15 any of the customers. We will just ask them briefly about how
16 that was handled. If there is a question, counsel can tell us,
17 and we will, of course, be very careful not to violate any
18 customer agreements.

19 THE COURT: OK.

20 MR. MOSKOWITZ: OK.

21 THE COURT: So there will be nothing about customers
22 or customer agreements or customer information.

23 MR. MOSKOWITZ: Besides FTX. Right.

24 THE COURT: Besides the agreements with FTX.

25 MR. MOSKOWITZ: Yes, your Honor.

1 THE COURT: Ms. Buchwald, I think in terms of the
2 personal jurisdiction and the issues that Judge Moore has
3 identified that that is probably about as narrow as we can make
4 it at this point.

5 MS. BUCHWALD: Understood, your Honor. Maybe I can
6 take -- I know you said on the protective order, on the motion
7 to quash, you weren't willing to grant that. The one request I
8 might have is if you can craft a protective order that says, in
9 effect, what Mr. Moskowitz said, which is, And plaintiffs will
10 not ask about customer information, I think that would go a
11 long way to giving my clients some comfort here.

12 THE COURT: Mr. Moskowitz, if someone from the Bahamas
13 comes to -- I can understand that. If they want something to
14 show why they are doing something required by a court order and
15 not something else and that they were doing something to
16 protect themselves, and you've represented that you are not
17 going to ask --

18 MR. MOSKOWITZ: It is just FTX and Alameda. So as
19 long as those two customers are in there, we are not going to
20 be asking about Mr. Bahamas or anyone else.

21 THE COURT: What you are asking about is the
22 agreements between Deltec and --

23 MR. MOSKOWITZ: Alameda and FTX. Right. We will get
24 to everything later down the road, but for purposes of this
25 battle, it will just be the agreements between Alameda, FTX,

1 and Deltec, figure out who those companies were that were
2 involved in those agreements. We will get past jurisdiction.
3 Then we will deal with the motion to dismiss.

4 THE COURT: OK. What I will do, then, is I am going
5 to grant a limited protective order that the discovery and the
6 deposition shall not include questioning about Deltec customers
7 and Deltec customer information other than the agreements
8 between Deltec and Alameda.

9 MR. MOSKOWITZ: Alameda and FTX.

10 THE COURT: I'm sorry.

11 MR. MOSKOWITZ: Right. Alameda and FTX and any of
12 their related parties. It could be FTX U.S. It could be an
13 FTX or Alameda company. I don't think there's going to be any
14 confusion there.

15 THE COURT: Ms. Buchwald, that should give your client
16 some cover. I understand that you don't want any of it to go
17 forward, but I am going to order that it go forward.

18 So under the circumstances, is there anything else
19 that you think that it needs to be worded in some way to give
20 them cover in the Bahamas? I understand you are not a Bahamian
21 lawyer. None of us are.

22 MS. BUCHWALD: No, and what I can say is this. What
23 continues to give me pause is if FTX and FTX-related entities
24 had accounts. Again, you read the statute and questions about
25 the assets and the like are kind of squarely within what is

1 prohibited from being shared, and I take it what they're saying
2 is we want to understand the contractual relationship, and
3 that's what you are limiting it to.

4 THE COURT: Let me ask that too, Mr. Moskowitz,
5 because I understand your concern. I understand you'd like to
6 do it.

7 In terms of personal jurisdiction, what the assets
8 are, what they are depositing, those amounts, how does that go
9 to jurisdiction? Isn't the jurisdictional issue really about
10 what the agreements are and how they're transacting business
11 rather than the amounts in which they're doing it or who
12 individual clients and depositors and individual loans and that
13 sort of thing?

14 MR. MOSKOWITZ: Yes. I'm trying to do it in the dark
15 because I don't know what is there.

16 Certainly what they did is relevant to, say, were they
17 a coconspirator. So I need to know not only what the contract
18 said, but what did they actually do. Did they do \$30 billion a
19 week for FTX in money going back and forth. That may actually
20 go towards furthering the conspiracy, which is an act -- I get
21 it. It is on the edge side of it.

22 THE COURT: You're really getting into merits there.
23 You're not really getting into the jurisdictional issue because
24 if you have a conspiracy, you have a conspiracy whether it is
25 small, whether it is big --

1 MR. MOSKOWITZ: Fair enough.

2 THE COURT: -- if you contributed.

3 MR. MOSKOWITZ: We will agree to just the agreements,
4 contracts with FTX, Alameda, and their related companies.
5 That's it. That will be enough for this hurdle.

6 THE COURT: OK. Then in terms of the production, it
7 will be those documents that we've already discussed.

8 MR. MOSKOWITZ: Right. And then one four-hour Zoom
9 deposition?

10 THE COURT: One four-hour Zoom deposition. That will
11 be -- we are just talking about one.

12 MR. MOSKOWITZ: One, yes. One, and it is a corporate
13 representative. So somebody will get prepared and we will
14 see -- obviously, your Honor can see if we ask the person and
15 he says I have no idea what Deltec whatever is. I mean, he or
16 she has to do some preparation.

17 I'm telling them what we are going to ask them. I
18 have given them the names of these entities so they can sit
19 down with that person and try to say, OK, Mr. Chalopin would
20 get you on the phone; what is the relationship of these
21 companies. Unless they're going to put Mr. Chalopin up. I
22 would think he would be the most knowledgeable person.

23 THE COURT: OK.

24 MR. MOSKOWITZ: Thank you, your Honor.

25 THE COURT: All right. Thank you.

1 MS. UPADHYAYA: Good afternoon, your Honor. Vani
2 Upadhyaya, with Morrison Cohen, here for Sino Global Capital
3 Holdings, LLC and Sino Global Capital Limited.

4 I'll keep it brief. Our position as to Sino Global
5 Capital Holdings is that it will absolutely produce limited
6 documents and information in accordance with the order, but
7 like other defendants have pointed out, 51 document requests,
8 25 requests for admission, eight interrogatories and a
9 deposition is completely overbroad and goes beyond the scope of
10 Judge Moore's order here.

11 If there is a way to limit it to issues pertaining to
12 personal jurisdiction, we can do that, but we think that a
13 deposition at this point would also just be duplicative of
14 information that could be elicited in interrogatories.

15 As for Sino Global Capital Limited, that entity is in
16 a different position. That entity has not been served with
17 process in this action. It has not moved to dismiss.
18 Plaintiffs' motion for jurisdictional discovery did not include
19 it, and it was not included in Judge Moore's order.

20 We had a meet and confer with plaintiffs where we
21 brought this up, and plaintiffs agreed to hold discovery as to
22 Limited in abeyance, but hours later we got a motion to compel
23 that seemingly includes it. So we think that at this stage it
24 is premature to have any jurisdictional discovery as to Sino
25 Global Capital Limited and we would ask that the court agree

1 with that.

2 THE COURT: OK. Let me start off, Mr. Moskowitz, my
3 impression from reading everything is that you're not going
4 forward on Sino Global Capital Limited at this time anyway,
5 correct?

6 MR. MOSKOWITZ: No. We just want one deposition.

7 THE COURT: OK. So we are only talking about Sino
8 Global Capital Holdings.

9 I guess we are back to where we are. Remind me your
10 name. I'm so sorry.

11 MS. UPADHYAYA: Vani Upadhyaya.

12 THE COURT: Upadhyaya.

13 MS. UPADHYAYA: Yes.

14 THE COURT: OK. You said your client is willing to
15 produce.

16 MS. UPADHYAYA: Limited documents on corporate
17 structure and answer interrogatories pertaining to activities
18 in Florida and California. We are not sure what beyond that
19 would be elicited in a deposition that wouldn't be duplicative.

20 THE COURT: OK. Mr. Moskowitz, I'm back to you. What
21 is it that you need on personal jurisdiction?

22 MR. MOSKOWITZ: Yes. Your Honor, Sino Global Capital
23 has a partnership with FTX. They are more than what we have
24 been talking about. They actually had a fund which they
25 created working with FTX.

1 THE COURT: OK.

2 MR. MOSKOWITZ: So we would absolutely like to ask
3 them for personal jurisdiction deposition questions. That's
4 all.

5 It is a reasonable deposition, four hours, about their
6 structure, about where they're based, about how they worked
7 with FTX, how they set up their own fund with FTX. In fact,
8 when we were searching our records, we found that Sino Global
9 Capital Management has an office in Miami, 111 Brickell Avenue,
10 tenth floor. That was never --

11 THE COURT: That is Sino Capital Holdings?

12 MR. MOSKOWITZ: No, this is Management, LLC.

13 So we are going to ask the one deposition, the
14 Holdings, can you tell us about what you know about Limited,
15 what you know about Management. I mean, all of these hedge
16 funds. They create tons of different entities. We'd like to
17 know what they did in their Miami office. So that would be
18 something we would ask in the deposition.

19 THE COURT: OK. Ms. --

20 MR. MOSKOWITZ: It is one guy. I mean, there is one
21 guy who owns all of these Sino funds. Matthew Graham. So it
22 is the same guy.

23 I don't want to go back to what we did with Deltec,
24 but I just want to make sure. Mr. Chalopin is a defendant. He
25 is an individual defendant in this case. So I just wanted to

1 clarify, if he is not going to be the corporate rep, we do want
2 to depose Mr. Chalopin. He is named. It is not just Deltec
3 Bank alone.

4 THE COURT: OK.

5 MR. MOSKOWITZ: We will get to that later.

6 THE COURT: We will come back to this because you did
7 tell me it was one. I asked you and you told me it was one
8 deposition.

9 MR. MOSKOWITZ: It is one deposition of Deltec, but
10 Mr. Chalopin is also a named defendant.

11 THE COURT: All right. OK. We were addressing both
12 parties, but OK.

13 MR. MOSKOWITZ: So one deposition here --

14 THE COURT: Is Ms. Buchwald still here?

15 MR. MOSKOWITZ: -- of Sino Holdings.

16 THE COURT: All right. OK. Let's address -- we will
17 come back to that.

18 MR. MOSKOWITZ: Thank you.

19 THE COURT: Let's stay on Sino Global for right now.

20 MS. UPADHYAYA: Your Honor, there are absolutely no
21 allegations in the complaint as to Sino Global Capital
22 Holdings, LLC. All relationships to FTX and potential
23 investment into FTX was allegedly made by Sino Global Capital
24 Limited, an entity that hasn't been served.

25 Now, there are questions and discovery sought about

1 other entities, Capital Management. I think that is completely
2 beyond the scope of jurisdictional discovery.

3 MR. MOSKOWITZ: My point, your Honor, how would you
4 know? How would you know what Sino entity to specifically name
5 when you bring a lawsuit. Say I relied on Sino because I know
6 Matthew and I read his blogs. How would I know the exact
7 technical name of the company to bring. So that is why this
8 deposition says, tell us, what do the different entities do,
9 who signed the agreement.

10 THE COURT: I understand where you're going,
11 Mr. Moskowitz. Again, we are on limited jurisdictional
12 discovery. This isn't about figuring out who you can sue; this
13 is about establishing whether you have jurisdiction over the
14 parties that you have named.

15 MR. MOSKOWITZ: Right.

16 THE COURT: I think what Judge Moore found here,
17 right, the district that he identified is whether there are
18 allegations of civil conspiracy on behalf of Sino Global
19 Capital and whether they can be imputed to Sino Global Capital
20 Holdings, Inc.

21 MR. MOSKOWITZ: Right.

22 THE COURT: So the issue is, to the extent -- and I
23 don't know if there is any basis for saying that any of
24 those -- because of what is involved in those other entities,
25 does that show a basis for imputing what Sino Global Capital

1 did to Sino Global Capital Holdings.

2 MR. MOSKOWITZ: We're trying to do this as quickly as
3 possible. If they want us to sue them again later.

4 A simple question for three minutes, what is your
5 management company, what do you do in the Florida office, I
6 don't see how that's burdensome. I'm just trying to make it
7 quick so we can get to the bottom line of who is the proper
8 defendant here. I get that.

9 Your Honor, we told you there are things we are going
10 to really need. We are happy to limit this deposition however
11 you'd like.

12 MS. UPADHYAYA: Respectfully, that information could
13 be answered in interrogatories and by producing corporate
14 structure documents.

15 THE COURT: Well, let me say, first of all, I think
16 they are entitled to a deposition. That is not the issue.

17 The issue might be the scope of the deposition, but
18 there isn't anything about Judge Moore's order, I think -- and
19 I don't know if you're the ones that argued it or not because,
20 frankly, between all the different parties, who argued what,
21 but I think depositions fall within the scope of jurisdictional
22 discovery. He certainly didn't exclude it. Even though it
23 wasn't addressed, I did note that it is actually in the request
24 for the lifting of the jurisdictional, that there be a
25 deposition as to each party.

1 MS. UPADHYAYA: Understood.

2 THE COURT: That was requested. So I think that is
3 appropriate. They are talking about a four-hour deposition.
4 So, again, I think that is appropriate.

5 In terms of the remaining discovery, what are we
6 talking about? What else is it on the motion to compel and the
7 response? What are we looking at? Again, I want to resolve
8 this. Are we talking about the same thing, the agreements?

9 MR. MOSKOWITZ: I think the exact same words we used
10 for Temasek I think would be fine, the same wording.

11 THE COURT: I guess that would be any contracts or
12 agreements between Sino Global Capital Holdings and any of the
13 FTX-related entities.

14 MR. MOSKOWITZ: And then the only difference here we
15 would add is, there was a liquid value fund that was set up
16 where Sino Global Capital is a partner of FTX. We'd just like
17 the agreement for this because this would clearly show
18 jurisdiction. I don't know where this took place, where it was
19 for.

20 THE COURT: All right. Wouldn't that fall within the
21 scope of this, an agreement between Sino Global Capital
22 Holdings and an FTX-related entity?

23 MR. MOSKOWITZ: Sure. It just says Sino Global
24 Capital. So I didn't want to have any issue. It doesn't say
25 Holdings. I guess Sino Holdings and their subsidiaries.

1 MS. UPADHYAYA: Just to clarify. You're not
2 proceeding on the basis of Sino Global Capital Limited,
3 correct?

4 MR. MOSKOWITZ: That's what we're going back to, yes.
5 I'm showing it right here.

6 THE COURT: That is Sino Global Capital Holdings
7 Limited.

8 MS. UPADHYAYA: I think he's saying that it is Sino
9 Global Capital Limited, the entity that they said they were not
10 going forward on.

11 THE COURT: You're saying that that is a -- I'm sorry.
12 Sino Global Capital Limited is the party to that agreement?

13 MR. MOSKOWITZ: This just says Sino Global Capital.

14 MS. UPADHYAYA: If it is Holdings, then that's --

15 THE COURT: OK.

16 MR. MOSKOWITZ: We wanted to make it easier so we said
17 just one deposition, one four-hour deposition. That was the
18 main purpose of that. But asking that person questions about
19 Sino Global Capital, whatever your Honor's pleasure.

20 THE COURT: I understand. I think they do get to ask
21 questions of the Sino Global Capital Holdings representative as
22 to the relationship between Sino Global Capital Limited and
23 Sino Global because that is what they talked about, what can be
24 imputed from Sino Global Capital to Sino Global Capital
25 Holdings, right?

1 MS. UPADHYAYA: Understood.

2 THE COURT: In terms of the deposition, that's fine.
3 My question was in terms of the document production, what are
4 we looking at?

5 MR. MOSKOWITZ: What can they produce? Again, I want
6 to be reasonable. We don't want to put them out. Could they
7 produce to us any and all agreements between Sino Global
8 Limited -- sorry -- Sino Global Holdings, Inc., and/or any of
9 their subsidiaries, entities with FTX or Alameda.

10 MS. UPADHYAYA: If it is limited to Holdings, yes.

11 THE COURT: So agreements and contracts between Sino
12 Global Capital Holdings and --

13 MR. MOSKOWITZ: I'd like their subsidiaries and their
14 related parties, including Sino Global Capital. I just want to
15 see the agreement. So if it is in their possession, custody,
16 or control. If it is not, it is not. But if he or she could
17 make a phone call and say, hey, can you send me the contract
18 between Sino Global Capital and FTX, that is within their
19 possession, custody, or control.

20 THE COURT: OK. Ms. Upadhyaya, I might not normally
21 think that, but given the issue here that was identified by
22 Judge Moore also goes to the fact that the district that he
23 sees is what could be imputed to Sino Global Capital Holdings
24 from Sino Global Capital Limited, I am inclined to say that
25 that would include the subsidiaries, including, if it is a

1 subsidiary, Sino Global Capital, Inc. or if -- Sino Global
2 Capital Limited, right. If that is within the custody,
3 control, or it is a subsidiary of Sino Global Capital Holdings,
4 Inc., and interest may not be --

5 MS. UPADHYAYA: Understood.

6 THE COURT: -- I don't know. But if it is a
7 subsidiary or it has possession of that information dealing
8 with Sino Global Capital Limited, it will also produce those
9 documents.

10 MS. UPADHYAYA: Understood.

11 THE COURT: So it is basically agreements and
12 contracts between Sino Global Capital Holdings and its
13 subsidiaries, including, if applicable, Sino Global Capital
14 Limited, and that would be their agreements, contracts with
15 FTX-related entities and Alameda.

16 OK. Anything else?

17 MR. MOSKOWITZ: No, your Honor.

18 THE COURT: No.

19 MS. UPADHYAYA: Thank you.

20 THE COURT: OK. Thank you.

21 Let's go ahead and address --

22 MR. MOSKOWITZ: I just wanted to be careful, your
23 Honor, because it appeared to me -- I had thought he was going
24 to be the corporate rep the whole time. So I figured we could
25 just do one, four hours, it's done.

1 The feeling that I got is that it may not be him, and
2 he is a personally-named defendant in this case. If he is not
3 going to be the corporate rep, I'd like to take his deposition
4 for three hours on those exact same issues.

5 MS. BUCHWALD: Again, I think given the limited scope
6 it is probably unnecessary. I think we can try to work through
7 this, again, subject to all of the issues that I've been
8 explaining about the potential risks that everybody is trying
9 to navigate.

10 THE COURT: OK. Let's do this. It will be the same
11 thing I said before. It will be, if he is not the corporate
12 rep or he won't be testifying as the corporate rep, then an
13 additional three hours of deposition, they get to depose
14 Mr. Chalopin for three hours on the same issues, basically.

15 MR. MOSKOWITZ: If you could just give us a week's
16 notice, so we know when it is.

17 THE COURT: Yes.

18 If you-all work something out that it can just be done
19 once, that's all fine.

20 MS. BUCHWALD: Understood.

21 MR. MOSKOWITZ: We will try to do that.

22 THE COURT: If there is something that you need -- the
23 discovery order here is going to be a summary order. It is
24 just going to refer back to the hearing for most of the stuff,
25 but I will enter a separate written protective order dealing

1 with what we talked about in terms of the deposition so that if
2 anyone needs to just show any Bahamian authorities why they
3 attended a deposition and answered these questions, there is at
4 least something of record that someone can show.

5 MS. BUCHWALD: Thank you, your Honor.

6 MR. MOSKOWITZ: Understood. Thank you, your Honor.

7 THE COURT: OK. Do we have any other party here?

8 MR. MOSKOWITZ: There is one more. Mr. Singh --

9 THE COURT: Mr. Singh I have.

10 MR. MOSKOWITZ: -- who is a social influencer.

11 THE COURT: Yes.

12 MR. MOSKOWITZ: I don't think he has a lawyer here.

13 THE COURT: OK. Have you had any discussions with --

14 A VOICE: I think Michael Cummings might be on the
15 phone.

16 MR. MOSKOWITZ: Maybe Mr. Cummings is on the phone,
17 but I know your Honor said you can't argue if you are
18 telephonically.

19 THE COURT: Is there any counsel for Mr. Singh on the
20 phone?

21 MR. CUMMINGS: Yes. This is Michael Cummings.

22 Can you hear me, your Honor?

23 THE COURT: I can, Mr. Cummings.

24 MR. CUMMINGS: Yes. I wasn't prepared to argue,
25 though we are pretty much in the same boat, I would say, as

1 Creators earlier and would pretty much echo their arguments.

2 We thought the scope was going into jurisdictional
3 discovery way beyond, jurisdictional into merits. Mr. Singh
4 has practically no contacts with Florida whatsoever.

5 We disagree, to the extent that any discussion between
6 the internet necessarily includes Florida, we don't agree with.
7 So we would resist that.

8 As far as the scope that your Honor ordered with
9 respect to Creators, we understand and would abide by that.

10 THE COURT: OK. Mr. Moskowitz, that works for you?

11 MR. MOSKOWITZ: Of course.

12 THE COURT: Then in terms of what I ordered earlier in
13 terms of the discovery to be produced by Creators Choice will
14 be the same order as well as to Mr. Jaspreet Singh.

15 MR. CUMMINGS: Understood, your Honor.

16 MR. MOSKOWITZ: Thank you, your Honor.

17 THE COURT: Is there anything else we need to address
18 then here today?

19 MR. MOSKOWITZ: I don't think so, your Honor.

20 THE COURT: Anything else from any of the defendants?

21 OK. All right. Thank you very much.

22 MR. MOSKOWITZ: Thank you so much, your Honor.

23 THE COURT: I hope it all goes smoothly for you-all.

24 (Adjourned)

25

C E R T I F I C A T E

I hereby certify that the foregoing is an accurate transcription to the best of my ability of the digital audio recording in the above-entitled matter.

January 19, 2024

s/ Joanne Mancari
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